

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s) : Chen et al.	)	I hereby certify that this paper
	)	(and/or fee) is being electronically
U.S. Serial No. : 09/910,987	)	deposited with the United States
	)	Patent and Trademark Office on this
Filed : July 23, 2001	)	date:
	)	
Title : "System for Automated	)	<b>March 30, 2009</b>
Connection to Virtual Private	)	
Networks"	)	
	)	
	)	/Daniel J. Glitto/
Art Unit : 2152	)	<hr/> Daniel J. Glitto
	)	Registration No. 58,996
Examiner : Kenny S. Lin	)	Attorney for Applicant(s)

**RENEWED PETITION UNDER 37 C.F.R. 1.137(B) TO REVIVE  
UNINTENTIONALLY ABANDONED APPLICATION**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby request reconsideration of the decision made by the Director on January 28, 2009. As noted in the decision, the following three periods of time are considered in evaluating a petition under 37 C.F.R. §1.137(b): (1) the delay in reply that originally resulted in the abandonment, (2) the delay in filing an initial petition pursuant to 37 C.F.R. §1.137(b) to revive the application, and (3) the delay in filing a grantable petition pursuant to 37 C.F.R. §1.137(b) to revive the application. In dismissing the Petition to Revive filed on January 15, 2009, the Director found the facts set forth therein insufficient to show an unintentional delay with regards to periods (1) and (2). The decision indicates that the Director requires additional details from any persons having firsthand knowledge of the circumstances surrounding the abandonment of the present application to accept the delays corresponding to periods (1) and (2) as unintentional. As demonstrated by the following facts

and explanations, the entire delay from the due date of the required reply until the filing of a grantable petition was unintentional.

The Delay in Reply that Originally Resulted in the Abandonment was Unintentional

On August 31, 2006, the United States Patent and Trademark Office (USPTO) issued a Restriction Requirement setting a shortened statutory period for reply of one month. As demonstrated in the attached Declaration of William Ryan (hereinafter "Exhibit A"), the attorney responsible for the present application, William Ryan, was made aware of the Restriction Requirement on October 3, 2006. Mr. Ryan agreed to file a response to the Restriction Requirement on the request of the assignee of the present application. (Exhibit B, electronic message sent on October 6, 2006). Mr. Ryan fully intended to respond to the Restriction Requirement when received from the assignee. (Exhibit A, paragraph #9).

However, due to a clerical error made by an assistant of Mr. Ryan, the Restriction Requirement was not docketed in the docketing system relied upon by Mr. Ryan to manage his workload. (Exhibit A, paragraph #11). As a result of this failure to create a docket entry, the need to respond to the Restriction Requirement was not timely brought to the attention of Mr. Ryan. (Exhibit A, paragraph #11). Consequently, no reply was filed within the shortened statutory period for reply or during the time period allowed with extensions of time.

In view of the foregoing facts, at no point did the applicants, the assignee, Mr. Ryan or his staff intend to abandon the present application. Therefore, the applicants respectfully submit that the entire delay in reply that originally resulted in the abandonment of the present application was unintentional.

The Delay in Filing an Initial Petition to Revive the Application was Unintentional

On May 25, 2007, the USPTO issued a Notice of Abandonment because no reply to the Restriction Requirement had been filed. The assignee did not expect to receive a Notice of Abandonment in connection with the present application as the assignee never intended to abandon the present application or discontinue the prosecution thereof in any manner. In particular, the assignee had instructed Mr. Ryan to respond to the Restriction Requirement and, thus, had no reason to believe that the present application would become abandoned. (Exhibit B, electronic message of October 3, 2006).

As shown in a second correspondence (hereinafter "Exhibit C"), the assignee informed Mr. Ryan of the Notice of Abandonment on July 23, 2007, and requested that Mr. Ryan file a petition to revive the present application. Mr. Ryan indicated that the response was mistakenly not filed with the USPTO, referring to the clerical errors made by Mr. Ryan's assistant, and agreed to file the petition to revive. (Exhibit C, electronic message of July 23, 2007). Mr. Ryan, believing that he was capable of preparing and filing the petition, agreed to do so on behalf of the assignee.

Mr. Ryan fully intended to prepare and file the petition to revive the present application but several personal misfortunes contributed to an unintentional delay in filing the petition. (Exhibit A, paragraph #13). In May of 2007, Mr. Ryan's sister-in-law, who had been suffering from cancer, underwent a worsening of her condition, requiring Mr. Ryan and his wife to travel to Arizona on several occasions to help care for his sister-in-law (Exhibit A, paragraph #14). These travels continued until her death on March 30th, 2008. (Exhibit A, paragraph #14). During the fall of 2007, problems with Mr. Ryan's eyesight that stem from a case of shingles became exacerbated and Mr. Ryan lost vision in his right eye. (Exhibit A, paragraph #15). Mr. Ryan underwent continuing treatment for his eyesight problems that

required Mr. Ryan to travel to specialists often, preventing Mr. Ryan from working for protracted periods and limiting periods during which Mr. Ryan could work. (Exhibit A, paragraph #16). Each of these circumstances caused a plurality of distractions that caused Mr. Ryan to forget to complete the petition to revive. However, Mr. Ryan never intended to disregard filing the petition. It simply became lost in the day to day illnesses Mr. Ryan was facing.

In early April of 2008, Mr. Ryan was in an accident in which Mr. Ryan suffered serious physical trauma. (Exhibit A, paragraph #17). The accident left Mr. Ryan incapacitated in many physical aspects. (Exhibit A, paragraph #18). In fact, Mr. Ryan had limited physical mobility and was subject to serious pain for several months following the accident. (Exhibit A, paragraph #18). Direct treatment for the problems related to the accident lasted until December of 2008 and Mr. Ryan still experiences varying degrees of physical incapacitation and pain. (Exhibit A, paragraph #19).

Mr. Ryan was incorrect in his initial assessment of his ability to file the petition. The assignee gave Mr. Ryan several opportunities to complete the petition. However, when it became clear to the assignee that Mr. Ryan's limited capacity was restricting him from filing the petition in a satisfactory amount of time, the assignee informed Mr. Ryan that another party would handle the petition to revive. (Exhibit A, paragraphs #20 and #21).

On January 14, 2009, the assignee retained Hanley, Flight & Zimmerman, LLC to petition to revive the application. Accordingly, the undersigned submitted a petition in accordance with 37 C.F.R. §1.137(b) on January 15, 2009.

In view of the foregoing facts and after due investigation, at no point during period of time taken to file the petition to revive did the applicants, the assignee, Mr. Ryan, or anyone else involved with this application intend to abandon the present application. Therefore, the

applicants respectfully submit that the entire delay in filing the initial petition to revive the application was unintentional.

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed (if any) or any additional fees which may be required during the pendency of this application to Deposit Account No. 50-2455.

Respectfully submitted,

HANLEY, FLIGHT & ZIMMERMAN, LLC  
150 South Wacker Drive  
Suite 2100  
Chicago, Illinois 60606

**March 30, 2009**

/Daniel J. Glitto/

Daniel J. Glitto  
Registration No. 58,996  
Attorney for Applicant(s)

## **EXHIBIT A**

### **DECLARATION OF WILLIAM RYAN**

I, William RYAN, hereby declare and state that:

1. I am an attorney registered with the United States Patent and Trademark Office (USPTO) under registration number 24,434.
2. By the authority granted to me by AT&T Corp. (hereinafter "the assignee"), I was responsible for the prosecution of United States Patent Application Serial No. 09/910,987 (hereinafter "the present application") beginning with the filing of the application on July 23, 2001, and ending in December of 2008.
3. At no time was I aware of any intention on the part of the assignee, the applicants, myself, or any other party involved in the prosecution of the present application to abandon the present application.
4. For a period of time including August 31, 2006, (the day the USPTO issued a Restriction Requirement setting a shortened statutory period for reply of one month) and May 25, 2007 (the day the USPTO issued a Notice of Abandonment in connection with the present application), I employed an assistant whose responsibilities included docketing incoming Office actions and entering the same into a docketing system used by my office.
5. At the time the Restriction Requirement issued on August 31, 2006, and at the time the Notice of Abandonment issued on May 25, 2007, I had no reason to believe that my assistant was incapable of correctly docketing incoming Office actions.
6. On October 3, 2006, I received an email from the assignee informing me of the Restriction Requirement of August 31, 2006, and instructing me to reply to the same.
7. On October 6, 2006, I informed the assignee that I would reply to the Restriction Requirement of August 31, 2006, and notified my assistant of this intention.

8. Without my knowledge, my assistant failed to create a docket entry for responding to the Restriction Requirement, although the standard practice at my office was for my assistant to docket incoming Office actions; I had relied on my assistant to docket that particular action.

9. I fully intended to respond to the Restriction Requirement when received from the assignee, but failed to do so due, in part, to the failure to create a docket entry therefore.

10. On July 23, 2007, the assignee informed me of the Notice of Abandonment that had issued on May 25, 2007, as a result of a failure to reply to the Restriction Requirement issued on August 31, 2006.

11. I learned of the abandonment of the present application for the first time on July 23, 2007. Upon learning of the abandonment of the present application, I reviewed my case files and found that the Office action dated August 31, 2006 had not been docketed.

12. On July 23, 2007, I agreed to file a petition to revive the present application on behalf of the assignee.

13. I fully intended to prepare and file the petition to revive the present application but due to several personal misfortunes I was distracted and disabled from following my normal work practices, which led to an unintentional failure to file the petition.

14. In May of 2007, my sister-in-law, who had been suffering from cancer, underwent a worsening of her condition, that required my wife and I to travel to Arizona on several occasions to help care for her. These travels continued until her death on March 30th, 2008.

15. During the fall of 2007, problems with my eyesight that stemmed from a severe case of shingles became exacerbated and I lost vision in my right eye.

16. I underwent continuing treatment for my eye problems that required me to travel to specialists, preventing me from working for protracted periods and limiting periods during which I could work.

17. In early April of 2008, I suffered a severe accident (hereinafter "the accident") in which I suffered serious physical trauma to my back.

18. The accident left me incapacitated in many physical aspects and I was limited in my physical mobility and subject to serious pain for several months.

19. Direct treatment for the problems related to the accident lasted until December of 2008 and I still experience varying degrees of physical incapacity and pain.

20. Despite my initial assessment and repeated assurance to the assignee that I would be able to complete the petition to revive, I was unable to complete the petition to revive for the reasons given above.

21. In December of 2008, after several attempts to complete the petition to revive, the assignee informed me in December of 2008 that the petition to revive would be handled by another party.

Dated: 2009-03-30

By: William Ryan

William Ryan  
USPTO Registration No. 24,434



**From:** William Ryan [wryan1@triad.rr.com]  
**Sent:** Friday, October 06, 2006 10:42 AM  
**To:** Brighton, Lauren J - LEGAL; ryanlaw@att.net  
**Cc:** marciaj@triad.rr.com  
**Subject:** RE: Docket No. 2000-0183  
Lauren:

OK, I've got this one. I'll act as directed.

Regards,

Bill Ryan, Attorney

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**From:** Brighton, Lauren J - LEGAL [mailto:lbrighton@att.com]  
**Sent:** Tuesday, October 03, 2006 10:09 AM  
**To:** ryanlaw@att.net  
**Cc:** marciaj@triad.rr.com  
**Subject:** Docket No. 2000-0183

Bill:

Attached is an Office Action dated August 31, 2006; **The one month due date was September 30, 2006. In response, restrict claims to series 1 and file a divisional for series 2 along with an Extension of Time.**

Since this was rated 'low silver' by the team, no attorney discussion of your response is necessary.

Please review all art cited in all jurisdictions and cite as appropriate.

**Please acknowledge receipt by return email.**

Thanks!

*Ms. Lauren Brighton  
Paralegal IP Support  
AT&T Enterprise Services, Inc.  
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**From:** William Ryan [wryan1@triad.rr.com]  
**Sent:** Monday, July 23, 2007 2:43 PM  
**To:** BRIGHTON, LAUREN J - LEGAL  
**Subject:** RE: Docket No. 2000-0183  
Lauren:

This is one that we've discussed (you or John) already. I will take care of it.

Regards,  
Bill Ryan, Attorney

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**From:** BRIGHTON, LAUREN J - LEGAL [mailto:lbrighton@att.com]  
**Sent:** Monday, July 23, 2007 9:50 AM  
**To:** ryanlaw@att.net  
**Subject:** Docket No. 2000-0183

Bill:

Attached is a Notice of Abandonment for this case dated May 25, 2007 issued by the PTO for non-response to the Office Action dated August 31, 2006.

Please **file a Petition to Revive** in this application as soon as possible **restricting claims to species 1 and filing a divisional for species 2.**

Since this was rated 'low silver' by the team, no attorney discussion of your response is necessary.

Please acknowledge receipt of this email.

Thank you.

**Ms. Lauren Brighton**

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